

REMARKS/ARGUMENTS

The Office Action mailed September 6, 2005 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claim Rejections - 35 USC § 112

In the Office Action the Examiner rejected Claim 26 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner stated that "[T]he jack screw" lacks antecedent basis, rendering the claim, which evidently should depend from claim 25 rather than claim 24, indefinite.

The Applicants have amended Claim 26 to depend from Claim 25.

Claim Rejections - 35 USC § 102

The Examiner rejected Claims 6-13 and 27-29 under 35 U.S.C. 102(b) as being anticipated by US Pat. 5765471 (US'471). The Applicants have canceled Claims 6-13 and 27-29.

The Examiner rejected Claims 14 and 15 under 35 U.S.C. 102(b) as being anticipated by US Pat. 3880064 (US'064). The Applicants have canceled Claims 14 and 15.

The Examiner rejected Claim 24 under 35 U.S.C. 102(b) as being anticipated by US Pat. 5570625 (US'625). The Applicants have canceled Claim 24.

Allowable Subject Matter

The Examiner stated, "Claims 25, 30, and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." The Applicants have amended Claim 25 to put it in independent form by including the limitations of Claim 24. However, the Applicants disagree with the Examiner concerning Claims 30 and 31 since Claim 30 depends from Claim 1 which is allowed, and Claim 31 depends from Claim 30.

The Examiner stated, "Claim 26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims." As pointed out above, Applicants have amended Claim 26 to overcome the rejection.

The Examiner stated, "The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or suggest a tortilla/food heater including, in combination with the other recited limitations, a compression grill, or raising and lowering the heating plates by means of a jack screw." The Applicants point out that there may be additional reasons for the patentability of their Claims and reserve the right to advance such reasons at a future date.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Respectfully submitted,

THELEN REID & PRIEST, LLP

Dated: Dec. 6, 2005



Robert E. Krebs
Reg. No. 25,886

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 292-5800
Fax. (408) 287-8040